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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: Allegiance Telecom, Inc.
Reply Comments in CC Docket No. 99-200

Dear Ms. Salas:

On behalf of Allegiance Telecom, Inc. ("Allegiance"), enclosed please find an original and four copies of Allegiance's reply comments in the above-referenced docket. An electronic copy of Allegiance's reply comments is being concurrently filed through the Common Carrier Bureau's Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call.

Respectfully submitted,

Jeanne W. Stockman

Jeanne W. Stockman

Enclosure

cc: Lyndall Nipps
Jeannie Grimes (electronic copy)
ITS

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	

REPLY COMMENTS OF ALLEGIANCE TELECOM, INC.

Allegiance Telecom, Inc. ("Allegiance"), by undersigned counsel, hereby files its Reply Comments regarding the Federal Communications Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking ("FNPRM") in the above-referenced proceeding.[1] Allegiance commends the FCC for recognizing the importance of allocating telephone numbering resources efficiently and in a competitively neutral manner. Numbers need to remain accessible to carriers seeking to enter the local exchange market if true competition is to develop. Allegiance shares the concerns expressed by an overwhelming majority of commenters regarding the FCC's proposal to implement a pricing scheme as a means of allocating scarce numbering resources. Allegiance agrees that the Commission lacks statutory authority to price for numbering resources, and that such a scheme would impermissibly benefit large, well-capitalized carriers to the detriment of new market entrants. Accordingly, Allegiance strongly opposes this proposal and urges the FCC to pursue

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[1] *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, rel. March 31, 2000.

alternate number conservation measures which are designed to remedy the underlying inefficiencies in the current allocation scheme and to slow the rate of number exhaust.

I. THE FCC IS NOT AUTHORIZED TO REQUIRE CARRIERS TO PAY FOR NUMBERING RESOURCES.

Allegiance agrees with the observations of other carriers that the FCC lacks statutory authority to charge for numbering resources. Unlike spectrum auctions, for example, the FCC has not been granted express authority from Congress to charge for numbering resources.[2] The FCC cannot reasonably assert that such authority is implied through Section 251(e)(2) of the Telecommunications Act of 1996 ("1996 Act"). Section 251(e)(2) provides that the "costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis."[3] Pricing for numbers themselves does not constitute a "numbering administration arrangement" and is in no way related to "number portability." Thus, Allegiance supports the views of other commenters[4] that the FCC lacks statutory authority to require carriers to pay for numbering resources and cannot lawfully impose a market-based numbering allocation scheme.

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[2]The FCC was expressly granted authority by Congress to conduct spectrum auctions pursuant to Section 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(j).

[3]47 U.S.C. § 251(e)(2).

[4]See, e.g., Comments of BellSouth Corporation at p. 13.

II. REQUIRING CARRIERS TO PAY FOR NUMBERING RESOURCES IS ANTI-COMPETITIVE AND THEREFORE CONTRARY TO THE PUBLIC INTEREST.

Even if the FCC were to conclude it did have the statutory authority to charge for numbering resources, such an approach would be anti-competitive and contrary to the public interest. As the Commission has recognized, numbers are a public resource that should be equally available to all users based on need.[5] From a competitive position, imposing a market-based system where number prices may be tied to demand places well-capitalized companies in a superior position as compared to smaller, less-capitalized competitors. This inequity, which is inherent and unavoidable in a price-based system, may enable well-capitalized companies to restrict market entry of their smaller competitors, a clearly anti-competitive result. As ALTS recognizes, this is directly contrary to the Commission's goal of ensuring that all carriers have access to the numbering resources they need to compete in the rapidly growing telecommunications marketplace.[6] Number allocation must remain competitively-neutral in order to realize the public interest benefits associated with a fully competitive telecommunications marketplace.

III. ALLOCATING NUMBERS BASED ON PRICE FAILS TO REMEDY THE UNDERLYING INEFFICIENCIES IN THE CURRENT NUMBER ALLOCATION SCHEME.

Allegiance opposes implementation of a price-based allocation scheme because this methodology fails to redress the root causes of number exhaust and therefore cannot meaningfully preserve scarce numbering resources. The root causes of number exhaust are (1) the allocation of

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[5]*Administration of the North American Numbering Plan,* 11 FCC Rcd 2588, 2591 (1995).

[6]Comments of the Association of Local Telecommunications Services ("ALTS") at p. 8.

numbers in blocks of 10,000; and (2) the need to obtain distinct NXXs to serve individual rate centers. Pricing for numbering resources does nothing to remedy these inefficiencies. Until the inefficiencies in the present allocation system are resolved, it is extremely unlikely that significant conservation of numbering resources will be achieved by alternate means. The FCC and the state commissions are in the process of addressing these inefficiencies and designing a comprehensive scheme to implement a nationwide number conservation plan. Injecting price-based numbering allocation at this stage would be both disruptive and unnecessary, especially considering the serious competitive issues surrounding pricing for numbering resources. Accordingly, Allegiance recommends that the Commission focus its efforts on implementation of the other number conservation methods, such as rate center consolidation, which will remedy present inefficiencies and forego consideration of price-based allocation.

IV. CONCLUSION

Allegiance strongly discourages the FCC from pursuing its proposal to allocate numbering resources pursuant to a market-based strategy. Aside from the threshold question of whether the Commission is authorized to charge carriers for numbering resources, Allegiance believes that such a scheme is anti-competitive because it will have a disproportionate impact on new market entrants with limited access to capital. In addition, even if a competitively-neutral allocation method could be designed, a market-based strategy fails to remedy the inefficiencies in the current allocation scheme. Allegiance urges the Commission to pursue alternate number conservation measures, such as rate center consolidation, which are designed to remedy the underlying inefficiencies in the current allocation scheme and to slow the rate of number exhaust.

Respectfully submitted,

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